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UNITED STATES SUPREME COURT

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STATE OF LOUISIANA, THROUGH
THE DEPARTMENT OF HIGHWAYS,
Plaintiff

vs.

CHARLES A. PATOUT ET AL.
Defendants

CONSOLIDATED NO. 71-342

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STATE OF LOUISIANA, THROUGH
THE DEPARTMENT OF HIGHWAYS,
Plaintiff

vs.

VERMILION DEVELOPMENT CO., INC.
Defendant

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STATE'S REPLY BRIEF IN FURTHER SUPPORT OF STATE'S PETITION FOR WRIT OF CERTIORARI AND REPLY TO RESPONDENT'S OPPOSITION

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ATTORNEYS:

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MAY IT PLEASE THE COURT:

The rationale of respondent's opposition is that the matter involved here is solely a State matter which contention is substantially refuted by the rationale of the decision in U. S. v. Certain Parcels of Land in Peoria County, Illinois, 209 F. Supp. 483, 488 (1962) , affirmed by Court of Appeal, Seventh Circuit, at 314 F. (2d) 825 (1963).

The language of this decision so aptly deals with respondents' contention that it is quoted in full here on the relevant point:

(4) That declaration alone refutes defendant's argument that the Act is merely a grant-in-aid statute, designed to enable Illinois and her sister states to provide suitable highways. The interstate system intended transcends state and local interest in the interest of a larger national purpose of providing a nation-wide system of highways adequate to meet the needs of the national defense and interstate commerce. Local needs and intra-state needs are secondary to that larger national purpose.[6] Although the participating States are charged with the primary responsibility of construction of the system, federal supervision is the keystone of the Act. Insofar as it relates to the interstate system, joint action of the several States is required in the matter of highway routing,[7] subject to the approval of the Secretary of Commerce.[8] All programs of construc-

6. *The interstate system is composed of limited access highways, with access points limited to those commensurate with the national purpose. No state may add points of access to, or exit from, any interstate route except upon the prior approval of the Secretary of Commerce. 23 U.S.C.A. 111.*

7. *"The Interstate System shall be designated within the United States, including the District of Columbia, and it shall not exceed forty-one thousand miles in total extent. It shall be so located as to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers, to serve the national defense and, to the greatest extent possible, to connect at suitable border points with routes of continental importance in the Dominion of Canada and the Republic of Mexico. The routes of this system, to the greatest extent possible, shall be selected by joint action of the State highway departments of each State and the adjoining States, subject to the approval by the Secretary as provided in subsection (e) of this section. * * * " 23 U.S.C.A. 103(d).*

8. *"The Secretary shall have authority to approve in whole or in part the Federal-aid primary system, the Federal-aid secondary system, and the Interstate System, as and when such systems or portions thereof are designated, or to require modifications or revisions thereof. No*

tion proposed by a State must be submitted to the Secretary for prior approval, [9] and the Secretary must give preference to programs which expedite completion of the interstate system [10] and priority to projects recommended by the Secretary of Defense as important to the national defense.[11] All plans, specifications and estimates of construction projects must be submitted for the approval of the Secretary,[12] and these must meet with standards established by the Act.[13] All construction by a State is subject to inspection and approval by the Secretary.[14] The cited areas of federal control are exemplary merely, not an exhaustive summary of the Act.

The Act thus provides for a joint federal-state program, grandiose in scope, for the construction of some 41,000 miles of limited access interstate highways of be completed in a period of thirteen years.[15] Section 107 (a) of the Act is an integral part of the legislation adopted by Congress to implement that program. The urgency of the federal purpose is exemplified by its language. Although the Act relates to three separate areas of federal-aid construction, namely, the secondary system, the primary system and the interstate system, the eminent domain provisions of Section 107 (a) are restricted to the "Interstate System." The obtaining of rights-of-way for the secondary and primary systems is left exclusively under State control. Thus Congress sought to insure that completion of the interstate system be not thwarted by the inability of the States, "for any reason", to obtain neces-

Federal-aid system or portion thereof shall be eligible for projects in which federal funds participate until approved by the Secretary." 23 U.S.C.A. § 103(e).

9. *23 U.S.C.A. § 105(a).*
10. *23 U.S.C.A. § 105(c).*
11. *23 U.S.C.A. § 105(d).*
12. *23 U.S.C.A. § 106*
13. *23 U.S.C.A. § 109*
14. *23 U.S.C.A. § 114*
15. *23 U.S.C.A. §§ 103(d), 101(b).*

sary rights-of-way. (Compare the similar grant of condemnation power in the Defense Highway-Aid Act of 1941, 55 Stat. 769.)

WHEREFORE, petitioner reiterates the prayer that a writ of certiorari issue to the Louisiana State Supreme Court to review the final decisions of that Court in the consolidated cases herein.

STATE OF LOUISIANA, THROUGH
THE DEPARTMENT OF HIGHWAYS,

BY ATTORNEYS:

NORMAN L. SISSON

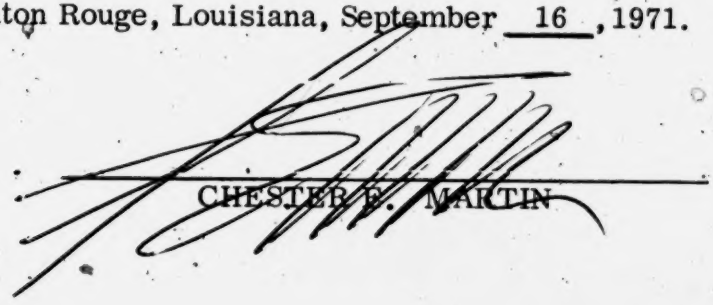
ROBERT J. JONES

CHESTER E. MARTIN

CERTIFICATE

A copy of the foregoing was mailed to Mr. Frank Smith, Jr., 221 West Main Street, P. O. Box 2609, Lafayette, Louisiana 70501, this day.

Baton Rouge, Louisiana, September 16, 1971.



CHESTER E. MARTIN